

## Ombudsman's Determination

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|-------------|--|
| Applicant   | Mr L   |
| Scheme      | TD SIPP  |
| Respondents | AJ Bell Management Limited ( <b>AJ Bell</b> ),<br>The Prudential Staff Pension Scheme ( <b>Prudential</b> ). |

### Outcome

1. I do not uphold Mr L's complaint against Prudential and no further action is required by Prudential.
2. Mr L's complaint against AJ Bell is upheld. To put matters right AJ Bell should compensate Mr L for any loss of growth on his investment.
3. My reasons for reaching this decision are explained in more detail below.

### Complaint summary

4. Mr L's complaint is about the delay in his transfer from Prudential to a TD Self Invested Personal Pension (**SIPP**), administered by AJ Bell. A summary of the timeline of events is set out in the Appendix.

### Background information

5. Mr L thinks Prudential is responsible for a delay between AJ Bell sending the transfer paperwork to Prudential and Prudential making the transfer payment to AJ Bell. However, Prudential has said that it could not complete the transfer until Mr L had returned the Options form.
6. Prudential has said that it included the required forms when writing to AJ Bell on 30 January 2014, and, at AJ Bell's request, it resent the forms by email on 24 February 2014. AJ Bell now accepts that it received this email, but admits that it overlooked the information at the time. As AJ Bell believed it did not have the required documents, it returned the funds to Prudential. However, AJ Bell did not contact Prudential or Mr L, to inform either party that this had taken place.
7. Prudential received the returned payment, but the reference did not include Mr L's name so Prudential could not identify to whom the payment related and, as a result, the money remained unallocated in Prudential's account. Prudential has said that, even if it had identified the return payment, it could not reinstate Mr L's benefits.



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8. TD, the SIPP provider, acknowledges that it did not address Mr L's complaint until Mr L contacted TD again on 20 October 2014. In response to the complaint, TD agreed to reopen the original SIPP and offered £100, as a goodwill gesture, in recognition of the disappointment Mr L experienced in its customer service.
9. Mr L did not accept the offer as he felt TD was partly responsible for the delay, so he requested that TD further investigate his complaint. After reviewing the timeline, TD accepted responsibility for the unallocated funds between 22 August 2014, when Mr L first raised a complaint, and 20 October 2014, when it asked AJ Bell to investigate the transfer issue. It calculated this to be a period of 58 days and awarded interest at 8% on the transfer amount for the period. Mr L accepted the compensation payment of £865.61.
10. However, Mr L thinks AJ Bell is responsible for the delay between 3 February 2014, when it received the transfer payment, and 15 December 2014, when the funds were invested into his SIPP.
11. AJ Bell returned the payment on 17 March 2014, and AJ Bell believes that Prudential could have identified the funds and resent them to AJ Bell within 10 working days. It says that the reference for the return payment included the date of original payment and the payment amount, so Prudential ought to have been able to identify it. Because of this, AJ Bell accepts responsibility for the delay between 24 February 2014, when it believes it first received the necessary paperwork, and 31 March 2014, when it considers that Prudential could reasonably have resent the transfer payment. AJ Bell also accepts responsibility for the delay between 20 October 2014 and 15 December 2014.
12. AJ Bell made an offer based on an interest rate of 2.5% for these two periods. Mr L did not accept this because he holds AJ Bell responsible for the loss of growth on his funds for the whole period they were misplaced. He is unhappy that AJ Bell repeatedly denied receiving the required forms and that it did not notify him or Prudential when it returned the transfer payment.
13. AJ Bell thinks that, as Prudential did not identify the returned payment, Prudential is responsible for any investment loss between 31 March 2014 and 22 August 2014.

### **Adjudicator's Opinion**

14. Mr L's complaint was considered by one of our Adjudicators who partly upheld the complaint. The Adjudicator did not suggest further action from Prudential, but did make a recommendation to AJ Bell to pay compensation for any loss incurred. The Adjudicator's findings are summarised briefly below:
  - Prudential sent all the required documents when originally transferring the funds. When Prudential was asked to resend these it did so in a timely manner. This part of the complaint was not upheld.



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- AJ Bell overlooked the documents, which was the cause of the delay. AJ Bell's reference when returning the funds did not include any personal information about Mr L so it was not reasonable to expect Prudential to be able to identify the payment.
  - AJ Bell was responsible for the delay from 24 February 2014, when AJ Bell received the required documents, to 15 December 2014, when the funds reached Mr L's SIPP.
  - The SIPP provider, TD, caused some delay between 22 August 2014 and 20 October 2014, for which it awarded compensation. AJ Bell can deduct the amount paid by TD from any compensation payable by AJ Bell to Mr L.
  - Mr L's initial intentions were to transfer into cash, so AJ Bell should perform a loss calculation, based on the growth of the cash fund.
15. Prudential accepted the Adjudicator's Opinion. Mr L and AJ Bell did not accept the Opinion. The complaint was passed to me to consider. Mr L and AJ Bell provided their further comments which do not change the outcome. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only respond to the key points made by Mr L and AJ Bell for completeness.

### **Summary of AJ Bell's comments**

- Prudential ought to have done more to identify the returned payment, so Prudential is responsible for the majority of the delay.
- Whilst the funds were transferred to the SIPP in December 2014, Mr L did not invest them until May 2015.
- The SIPP cash account pays interest at the Bank of England base rate less 1%, to a minimum of 0.1%. The base rate in 2014 was 0.5% so interest would have been payable on cash at 0.1%.
- It does not agree that it is solely responsible for the delay to Mr L's transfer, nor with the time period for calculating the loss.

### **Summary of Mr L's comments**

- The statement that he was to invest in the cash fund is incorrect and has no basis.
- The transfer amount had been invested in an equity based index whilst with Prudential, so this index should be used for the purposes of the calculation.
- He expects to be compensated for the loss up to the present date.
- The fact that he didn't follow up straight away does not make him culpable.



**Ombudsman's decision**

16. AJ Bell's maladministration caused the delay. AJ Bell overlooked the receipt of the required documents on two occasions and, as a result, it incorrectly returned the transfer payment.
17. AJ Bell argued that Prudential should have done more to identify the payment. However, the banking reference for the return payment did not include any information linking it to Mr L, nor did AJ Bell contact Prudential or Mr L to tell them the funds were to be returned. Because of this, Prudential cannot reasonably be expected to have identified the return payment. For this reason I find AJ Bell responsible for the delay from 24 February 2014 to 15 December 2014.
18. Mr L disagreed with the Adjudicator's statement that he initially intended to transfer his funds to the SIPP cash fund. Given that Mr L did not invest the funds until six months after they reached his SIPP, I find the Adjudicator's statement, and resultant loss calculation method, reasonable.
19. Mr L has said that any loss calculation should be based on the index in which his funds were invested with Prudential. However, even if Prudential was able to identify the return payment, it would not have been able to reinstate the funds. Because of this I do not agree to Mr L's request to use an equity index for the purposes of the calculation.
20. Whilst I believe Mr L has experienced some inconvenience because of AJ Bell's maladministration, I do not consider this to be significant. Mr L has said that waiting to check for confirmation of the completed transfer does not make him culpable, and I agree. However, his inaction to check on the transfer suggests that it was not at the forefront of his mind, so I do not think the delay caused him significant distress. I am not awarding additional compensation for this.
21. I uphold the complaint against AJ Bell.

**Directions**

22. Within 21 days of this Determination, AJ Bell shall calculate the notional value of the transfer amount on 15 December 2014, had it been invested in the cash fund from 24 February 2014. The difference between this notional value and the actual transfer value will represent the investment loss. TD has paid compensation for the period between 22 August 2014 and 20 October 2014. Mr L should not be compensated twice so AJ Bell can deduct the compensation TD has paid from the loss figure. The remainder, if indeed there is a loss, shall be paid to Mr L's SIPP.

**Anthony Arter**

Pensions Ombudsman

10 March 2017



## Appendix

|                  |   |
|------------------|---|
| May 2013         | Mr L opened a trading SIPP account online with TD. As there was no activity on the account for six months, TD closed the account, in line with its policy.  |
| October 2013     | Mr L requested a transfer of his deferred benefits with Prudential to the TD SIPP.  |
| 4 November 2013  | Prudential sent documents to Mr L, including its 'Options form' and told Mr L that, in order to proceed with the transfer, he would need to return this form.   |
| 27 November 2013 | AJ Bell sent transfer paperwork to Prudential.  |
| 24 January 2014  | Prudential received Mr L's Options form. It valued Mr L's pension benefits on this date to be around £68,000  |
| 30 January 2014  | Prudential wrote to AJ Bell and to Mr L to say that the transfer payment would be sent to AJ Bell on 31 January 2014. Prudential has said that all the required forms were included in its letter to AJ Bell. The bank reference for the payment included Mr L's full name.   |
| 3 February 2014  | AJ Bell received the transfer payment into its bank account.  |
| 24 February 2014 | AJ Bell called Prudential to chase the supporting forms and Prudential resent them by email on the same day.  |
| 17 March 2014    | AJ Bell returned the transfer payment to Prudential.  |
| 22 August 2014   | Mr L emailed TD to ask why the transfer was not completed. AJ Bell told TD that it had not received the paperwork from Prudential so had returned the funds. TD then informed Mr L that he would need to open a new SIPP as his previous account was closed. Mr L complained about this and asked TD to reconsider. |
| 20 October 2014  | TD asked AJ Bell to investigate the transfer issues.  |
| 15 December 2014 | The funds were returned to AJ Bell and invested into the TD SIPP.   |